

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

PETER TINKHAM, JULIET ALEXANDER,  
and SAMANTHA TINKHAM, pro se,  
Plaintiffs,  
v.

DOREEN R. KELLY, BARRY L.  
MINTZER, JEAN CURTIS LOUD,  
ROBERT L. DOYLE, DONNA KYED,  
MARGARET VERRET, JOAN  
BERNHEIMER, JUDI ALBERTON,  
CLAIRE JACKSON, ERIN L. SENGES,  
BARBARA A. HAWKES-SULLIVAN,  
BARNEY KEEZELL, STEPHANIE  
THOMAS, ERICA COHEN, and  
KENNETH PONTES,  
Defendants.

CIVIL ACTION  
NO. 05-10470-MLW

**CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(A)(2) AND AFFIDAVIT  
OF STEPHEN DICK, ATTACHED TO DSS DEFENDANTS' MOTION TO DISMISS  
THE COMPLAINT PURSUANT TO FED. RR. CIV. P. 12(b)(1), (6)**

Stephen Dick deposes and says of his own knowledge:

1. I am the assistant attorney general assigned to the above-captioned matter, appearing for the DSS Defendants.
2. Pursuant to Rule 7.1(A)(2) of the United States District Court for the District of Massachusetts, I certify that the parties conferred on the attached Motion by telephone on July 15, 2005 at 2:39 PM on this Motion, but were unable to narrow the issues.
3. I further certify that on July 20, 2005, DSS informed me that a fair hearing remained open to Plaintiffs at their request.
4. On August 3, 2005, I transmitted a letter to Plaintiffs informing them that DSS would hear their appeal at a fair hearing that, if immediately scheduled, would most likely be heard in January, 2006. The letter is attached hereto.

5. Having heard nothing from Plaintiffs, I wrote to them on September 14, 2005, requesting that they contact me as soon as possible. The letter is attached hereto.
6. I informed Plaintiffs again of the availability of the fair hearing in my letter of 10/3, transmitting a copy of Defendants' consent to transfer of this case to Magistrate Judge Alexander.
7. I then attempted to contact Plaintiffs by phone on September 15<sup>th</sup>, on the 16<sup>th</sup> at 11:15 AM, and again at 2:30 PM, and on September 19, at 7:57 AM. There was no answer, and no voice mail has ever picked up.
8. I telephoned Plaintiffs again on Friday, 9/30 at 6:47pm. Again there was no answer.
9. I telephoned Plaintiffs again on Wednesday, 10/5 at 3:59pm. Again, no answer.
10. I telephoned again on Thursday, 10/6 at 9:31am and 11:55 am, to no answer.
11. On each phone call I rang 15 times.
12. Finally, I reiterated the matter in my transmittal letter of the attached Motion to Dismiss the Complaint, one each to both Plaintiffs. I have also furnished Plaintiffs with my e-mail address.
13. I have heard nothing from Plaintiffs since the above-mentioned conversation on July 15, 2005.

Sworn to under penalty of perjury, this 6<sup>th</sup> day of October, 2005.

/s/  
\_\_\_\_\_  
Stephen Dick

July 12, 2005

Mr. Peter Tinkham  
Ms. Juliet Alexander  
PO Box 466  
Hopkinton MA 01748-9998

**Re: Tinkham, pro se, et al v. Kelly, et al.  
USDC 05-10470-MLW**

Dear Mr. Tinkham and Ms. Alexander:

The Massachusetts Department of Social Services will hear your appeal. Should you desire to exercise that right, the hearing would probably occur sometime between November, 2005 and January, 2006. In the event you are aggrieved by that decision, judicial review will of course be available to you, also as of right, under G.L. c. 30A, §14. Please contact me if you wish to go forward with your DSS appeal.

On another matter, kindly be advised that the Court will not consider motions with which defense counsel has not been served a copy.

Thank you for your attention.

Sincerely,

Stephen Dick, AAG  
x3324  
[stephen.dick@ago.state.ma.us](mailto:stephen.dick@ago.state.ma.us)

cc: Barney Keezell

September 14, 2005

Mr. Peter Tinkham  
Ms. Juliet Alexander  
PO Box 466  
Hopkinton MA 01748-9998

**Re: Tinkham, pro se, et al v. Kelly, et al.**  
**USDC 05-10470-MLW**

Dear Mr. Tinkham and Ms. Alexander:

Would you please contact me as soon as possible at the above phone number.

Thank you for your attention.

Sincerely,

Stephen Dick, AAG  
x3324  
[stephen.dick@ago.state.ma.us](mailto:stephen.dick@ago.state.ma.us)

October 6, 2005

Mr. Peter Tinkham  
PO Box 466  
Hopkinton MA 01748-9998

**Re: Tinkham, pro se, et al v. Kelly, et al.**  
**USDC 05-10470-MLW**

Dear Mr. Tinkham:

Enclosed and served on you please find a true and accurate copy of the DSS Defendants' Motion to Dismiss the Complaint pursuant to Fed. RR. Civ. P. 12(b)(1), (2) with attached Certificate of Compliance and Affidavit of Stephen Dick.

Once again, I reiterate that I have written and attempted several times to contact you by telephone, in order to get your response to DSS's notice that it will schedule a fair hearing for you. The fair hearing will open access to the entire panoply of state remedies, administrative and judicial, of which you have not as yet availed yourself.

Sincerely,

Stephen Dick, AAG  
Assistant Attorney General  
(617) 727-2200, x3324

enc.

October 6, 2005

Ms. Juliet Alexander  
PO Box 466  
Hopkinton MA 01748-9998

**Re: Tinkham, pro se, et al v. Kelly, et al.**  
**USDC 05-10470-MLW**

Dear Ms. Alexander:

Enclosed and served on you please find a true and accurate copy of the DSS Defendants' Motion to Dismiss the Complaint pursuant to Fed. RR. Civ. P. 12(b)(1), (2) with attached Certificate of Compliance and Affidavit of Stephen Dick.

Once again, I reiterate that I have written and attempted several times to contact you by telephone, in order to get your response to DSS's notice that it will schedule a fair hearing for you. The fair hearing will open access to the entire panoply of state remedies, administrative and judicial, of which you have not as yet availed yourself.

Sincerely,

Stephen Dick, AAG  
Assistant Attorney General  
(617) 727-2200, x3324

enc.